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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/544,321	04/06/2000	Brad D. Guthrie	200-0522	7919

32996 7590 07/31/2003

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EXAMINER

FISHER, MICHAEL J

ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/544,321	GUTHRIE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael J Fisher	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 14 May 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 7-9,11-15 and 17 is/are rejected.
- 7) Claim(s) 10 and 16 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

Note: The examiner would like to apologize for misinterpreting the scope of the claims in the previous office action.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 7-9,11-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock et al. (Ayccock).

As to claims 7 and 13, Ayccock discloses evaluating suppliers materials for purchase (Title) and only purchasing those that meet quality assurance levels (fig 1, #s 40,42,44,46,48,50,52, to 32 or 54 to 56), such as ISO 900X standards.

As to claims 8,9,11,12 and 14, Ayccock does not specifically teach using the system for the purchase of dies or using the criteria of inclusion of substances such as carbon, manganese, phosphorus, sulfur, silicon chromium, molybdenum, vanadium,

aluminate, silicate or globular oxides however, these are directly related to the quality of metal objects and therefore, it would have been obvious to one of ordinary skill in the art to use these substances for the criteria in evaluating suppliers of dies for quality control purposes.

As to claim 15, it would be inherent that a company would only purchase those materials that meet certain standards, hardness would be an important criteria in the tool and die trade.

As to claim 17, Aycock discloses only buying from a supplier that supplies at a consistent level of quality (fig 1, blocks 52,32 and 54).

#### ***Allowable Subject Matter***

Claims 10 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: As to claim 10, the prior art does not teach only doing the testing on objects that meet certain criteria, it instead teaches testing all objects from all prospective suppliers. As to claim 16, the prior art does not teach specifically using only carbide as a litmus test for purchasing from a supplier. While the prior art does teach using a disparate number of tests, specifically using only carbide content would not be obvious.

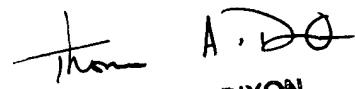
#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US PAT 5,737,494 to Guinta et al., Guinta et al. teach a system and apparatus for ensuring quality control in a process, Selection and use of ISO 9000 from the website www.iso.ch from 1998 (ISO), ISO teaches a system for assuring quality control in products to ensure a consistent quality in product produced.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Fisher whose telephone number is 703-306-5993. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

MF   
July 24, 2003

  
THOMAS A. DIXON  
PRIMARY EXAMINER